IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 4513 of 2003

Between:
Sri Srinivasa Aluminium Works Rep.by its Managing Partner,Kotha Gandhi
Kodad (V) & (M),Nalgonda Dist A.P.

..... PETITIONER

AND

1 Appellate Deputy Commissioner Hyderabad Rural Division
Manoranjan Buildings III Floor,M.J.Road
Nampalli Hyderabad.
2 Deputy Commercial Tax Officer
Kodad Circle Suryapet Road
Kodad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to To issue a writ or Mandamus declaring the orders passed by the 1st respondent in G.I.Nos.N/164/99, N/165/99,N/166/99,N/169/99, N/167/99 dt.27-10-2001 and N/574/99 and dt.29-10-2001 without giving any reasonable opportunity for hearing as per the provisions sub Sec.3 of Sec.19 of APGST Act is as illegal, arbitrary, and violation of principles of natural justice and quash the orders accordingly consequently direct the 2nd respondent to issue tax adjustment certificate immediately for the assessment years 1991-92,1992-93,1993-94,1994-95,1995-96,1996-97 and to pass in the interest of justice.

For the Petitioner:MR.K.DURGA PRASAD, Advocate.

For the Respondents : Special Government Pleader for Taxes.

The Court Made the Following :

ORDER : (Per Sri Bilal Nazki, J).

Heard learned Counsel for the parties. Counter has been filed. The matter is decided at this stage with the consent of the learned Counsel for the parties.

Short grievance of the petitioner is that his appeal was rejected by the appellate authority on the ground that he had not paid the admitted tax, whereas the petitioner claims that he was entitled to exemption in view of tax holiday, therefore he had not to pay any admitted tax, before the appeal could be admitted. In the counter affidavit, it has been admitted that due to inadvertence, the exemption was not taken into consideration while creating the demand and after the appeal was decided, the matter was considered again and an exemption was given to the tune of Rs.3,08,033/- against the total demand of Rs.4,32,852/-, therefore the petitioner had to pay balance of Rs.1,24,819/-.

Since the appellate authority did not take into consideration the exemption, therefore we feel that the rejection of appeal on this ground, was bad. Therefore, we set aside the order of rejection of the appeal and remand the case back to the appellate authority to decide the case on

merits on payment of the balance amount by way of admitted tax, by the petitioner.

Writ Petition is accordingly disposed of. No costs.

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(BILAL NAZKI, J)

28th June, 2004.

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(P.S.NARAYANA,J)

ajr.

To

1) Appellate Deputy Commissioner, Hyderabad Rural Division,
Manoranjan Buildings III Floor,M.J.Road, Nampalli, Hyderabad.
2) Deputy Commercial Tax Officer, Kodad Circle, Suryapet Road,
Kodad.
3) Two copies to the Special Government Pleader for Taxes,
High Court buildings, Hyderabad (O.U.T).
4) Two C.D. copies.